

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

Nos. CV 12-03976

MICHAEL C. DAVIS,

Plaintiff,

v.

AMTRACK,

Defendant.

**ORDER GRANTING APPLICATION TO
PROCEED *IN FORMA PAUPERIS*;
DIRECTING SERVICE**

On July 27, 2012, *pro se* plaintiff Michael C. Davis filed a complaint against “Amtrack” [sic] for property loss and an application to proceed *in forma pauperis*. On November 15, 2012, the Court granted plaintiff’s application but dismissed his complaint for failure to state a claim upon which relief could be granted, with leave to amend.

Plaintiff filed an amended complaint on November 21, 2012. Plaintiff alleges that he is owed \$8000 in damages because “Amtrack” [sic] lost his luggage and has not reimbursed him. He also alleges that he has made efforts to recover the luggage and fees. “Amtrak,” officially the National Railroad Passenger Corp., is a federally chartered corporation of which the United States owns more than 50 percent of the capital stock, and therefore the court has original jurisdiction over some causes of action. 28 U.S.C. § 1349; *Rodriguez v. County of Stanislaus*, 2008 WL 4765110, *8 (E.D. Cal. 2008).

When a plaintiff proceeds *in forma pauperis*, a court shall *sua sponte* dismiss a case at any time if the court determines that the action fails to state a claim upon which relief may be granted. *See* 28 U.S.C. § 1915(e)(2); *Kunamneni v. Gutierrez*, 2009 WL 909831, at *1 (N.D. Cal. 2009) (Hamilton, J.). The Court finds that plaintiff’s amended complaint contains facts sufficient to state a claim – at least as far as *in forma pauperis* application is concerned. The Court therefore GRANTS plaintiff’s application to proceed *in forma pauperis*. The Court may reconsider whether plaintiff has sufficiently stated a claim

1 for relief in light of any motion to dismiss brought by the defendant.

2 IT IS ORDERED that the Clerk issue summons, and that the U.S. Marshal for the Northern
3 District of California serve, without prepayment of fees, a copy of the complaint, any amendments,
4 scheduling order, attachments and any other papers filed in this case, including this order, upon the
5 defendant.

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7 **IT IS SO ORDERED.**

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9 Dated: March 25, 2013



10 SUSAN ILLSTON
11 United States District Judge
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